

MINUTES OF THE SOLID WASTE MANAGEMENT BOARD MEETING

Indiana Government Center South
402 West Washington Street
Conference Center Room A – 1:30 p.m.
Indianapolis, Indiana
January 16, 2007

The meeting was called to order by Mayor William Graham, Chairperson, at 1:33 p.m. Those present for all or part of the meeting were:

Mr. Mark Davis
Mr. Rick Dyar
Mr. Chuck Himes
Mr. Kerry Stepter
Dr. Lenore Tedesco
Mr. Howard Cundiff (Proxy, State Department of Health)
Mr. Steve Boyce (Proxy, Lieutenant Governor's Office)
Ms. Pamela Fisher (Proxy, Indiana Economic Development Corporation)
Ms. Deborah Albright, Board Counsel

A quorum was present.

In addition, the following Indiana Department of Environmental Management (IDEM) staff members were present for all or part of the meeting:

Mr. Tom Easterly, Commissioner
Mr. Bruce Palin, Assistant Commissioner, Office of Land Quality
Ms. Peggy Dorsey, Deputy Assistant Commissioner, Office of Land Quality
Mr. Mike Dalton, Chief, Rules, Planning and Outreach Section
Ms. Lynn West, Rules, Planning and Outreach Section
Ms. Bonnie Nash, Planning and Outreach Section
Ms. Kiran Verma, Rules, Planning and Outreach Section
Ms. Marjorie Samuel, Rules, Planning and Outreach Section
Ms. Daniela Klesmith, Engineering, Permits Branch
Ms. Ann Long, Office of General Counsel

Mayor Graham introduced Mr. Steve Boyce, the newly designated proxy representing the Lieutenant Governor's Office.

1. Mayor Graham asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of November 21, 2006. There were none. Mayor Graham asked for a motion to approve the minutes as presented. Mr. Chuck Himes so moved and Mr. Rick Dyar seconded. The motion passed unanimously.

APPROVAL OF
MINUTES

Mayor Graham announced that at the moment a quorum was not yet present. Though official action would not be taken, he asked for reports.

2. Mayor Graham then invited Mr. Bruce Palin, Assistant Commissioner, Commissioner, to address the Board. Mr. Palin introduced the new Deputy Assistant Commissioner for the Office of Land Quality,

IDEM
REPORTS

Peggy Dorsey. Ms. Dorsey had previous experience with the agency as the section chief of the Voluntary Remediation Program. He then asked Ms. Lynn West to present a rules update.

Ms. West distributed the rules project list and explained that no new rules had been added. Ms. West then introduced Ms. Bonnie Nash, a new rulewriter with the Office of Land Quality.

At this point, Mr. Kerry Stepter arrived and a quorum was established.

3. Mayor Graham announced the following rulemaking actions:

- A. Final adoption of LSA #06-182, Amendments to Rules at 329 IAC 9 Concerning Additional Measures to Protect Ground Water. This hearing was noticed in the Indiana Register on November 15, 2006, and can be found at DIN: 20061115-IR-329060182PHA. The proposed rule was published in the Indiana Register on November 15, 2006, at DIN: 20061115-IR-329060181PRA. The hearing was continued from the November 21, 2006 Solid Waste Management Board meeting, and will again be continued to the March 20, 2007 Solid Waste Management Board meeting at 1:30 p.m., Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.
- B. Preliminary Adoption of LSA #05-181, Electronic Waste. The draft rule was published in the Indiana Register on September 27, 2006, at DIN: 20060927-IR-329050181SNA. This hearing was noticed in the Indiana Register on September 27, 2006, at DIN: 20060927-IR-329050181PHA.
- C. Preliminary Adoption of LSA #06-556, Amendments to Rules Concerning the Hazardous Waste Management Permit Program and Hazardous Waste Management, also known as the 2006 Hazardous Waste Annual Update Rule. The hearing was noticed in the Indiana Register on December 6, 2006, and may be found at DIN: 20061206-IR-329060556PHA. The rule was published as Findings and Determination of the Commissioner Pursuant to IC 13-14-9-8 and draft rules in the Indiana Register on December 6, 2006, at DIN: 20061206-IR-329060556FDA. This hearing will be continued to the March 20, 2007 Solid Waste Management Board meeting at 1:30 p.m., Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.
- D. Final Adoption of LSA #05-167, Amendments to Rules at 329 IAC 10-20 and 329 IAC 10-39, Concerning Solid Waste Land Disposal Facilities, Financial Responsibility, and Annual Review and Annual Survey Results. The proposed rule was published in the Indiana Register on November 29, 2006, at DIN: 20061129-IR-329050167PRA. The hearing was noticed in the Indiana Register on November 29, 2006, at DIN: 20061129-IR-329050167PHA.
- E. Final Adoption of LSA #05-296, Amendments to Rules at 329 IAC 10-9-3, 329 IAC 10-11-2.1, 329 IAC 10-3-5, 329 IAC 10-20-25, 329 IAC 10-22-2, and 329 IAC 10-23-3, Concerning Crushed Construction/Demolition Waste and Changes to Permitting Requirements Mandated Under Senate Enrolled Act 239-2005. The proposed rule was published in the Indiana Register on December 6, 2006, at DIN: 20061206-IR-329050296PRA. This hearing was noticed in the Indiana Register on December 6, 2006, at DIN: 20061206-IR-329050296PHA.

- G. Final Adoption of LSA #05-234, the Environmental Stewardship Program and Comprehensive Local Environmental Action Network. The proposed rule was published in the Indiana Register on December 13, 2006, at DIN: 20061213-IR-329050234PRA. The hearing was noticed in the Indiana Register on December 13, 2006, and can be found at DIN: 20061213-IR-329050234PHA.

Mayor Graham said that the stated rules were all included in the Board packets for this meeting and are available for public inspection in the Indiana Department of Environmental Management File Room, located on the 12th floor of the Indiana Government Center North, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m. Instructions were given to the public regarding offering oral statements and comments to the Board. The court reporter was affirmed.

4. Mayor Graham announced the continuation of the hearing to consider #06-182, Amendments to Rules at 329 IAC 9, Additional Measures to Protect Ground Water, for final adoption.
- FINAL ADOPTION
AMENDMENTS TO RULES
AT 329 IAC 9, ADDITIONAL
GROUND WATER

There was no public comment so the hearing was continued to the March 20, 2007 Solid Waste Management Board meeting, 1:30 p.m, Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana. Mayor Graham said that another opportunity would be provided for public comment.

5. Mayor Graham announced the public hearing to consider preliminary adoption of LSA #05-181 the addition of 329 IAC 16 concerning electronic waste. He introduced Exhibit A, the draft rule, into the record and asked Ms. Lynn West to address the Board.
- PRELIMINARY ADOPTION
329 IAC 16
ELECTRONIC WASTE

Ms. West first referred the Board to a previously-distributed informational paper on the subject of electronic waste, i.e., background, quantities and hazards of electronic waste. Ms. West then reviewed the draft rule, saying that the rule was the result of nine meetings of a workgroup with representation from consultants, environmental groups, e-waste processors, cities and towns, and universities. The rule will encourage legitimate recycling of e-waste and incorporates federal rules regarding cathode ray tubes, making Indiana rules consistent with associated federal regulations. Other specific points include exclusions for e-waste from hazardous and solid waste rules; definitions specific to e-waste, storage provisions, registration and operational requirements, facility closure requirements and financial assurance. Ms. West also told the Board about her research on the cost of surety bonds. Finally, Ms. West showed the Board a flier she had received in the mail regarding recycling of computers, to emphasize the necessity of preparing for e-waste. Please see pages 16 through 19 of the official transcript of this meeting for a verbatim account of Ms. West's remarks.

Mayor Graham asked for questions from the Board. Mr. Chuck Himes asked for clarification regarding the flier. Ms. West said that she had received it in her personal mail. Then Mayor Graham indicated that he had speaker cards from the following:

1. Jim Parker, Indiana Recycling Coalition (IRC).
2. Lisa Laflin, Office of Strategic Planning, City of Indianapolis.
3. Julie Rhodes, Independent Consultant.
4. Eric Goldsmith, Goldsmith Group.

Mr. Parker said that the IRC has been working to educate the public and businesses about proper disposal of “e-scrap” in the State of Indiana and support the rulemaking process. He mentioned that Julie Rhodes had also been working with “stakeholders and businesses in the government and private sector.” He also expressed gratitude to IDEM and staff for support and said it was a “great collaborative effort”.

Ms. Laflin said they were impressed with the “inclusion of all voices in the electronic waste industry” and appreciated being part of the rulemaking process.

Ms. Rhodes referred to Ms. West’s informational paper to emphasize that e-scrap is a growing issue. She said that the inclusion of computer and television monitors and electronics containing lead in circuit boards and mercury in the backlighting is a good step to get ahead of the potential problems. She also expressed appreciation for the rulemaking process that included a workgroup that allowed a broad base of opinion while working toward consensus. She felt that it was important to balance the need for protection with reasonable requirements. She felt the registration, rather than requiring a permit process, would not be overly burdensome.

Mr. Goldsmith expressed appreciation to IDEM and other participants in the workgroup process. He felt that the rule was “really great” and would “...start us off on a good footing”. The rule will also bring awareness about the need to properly manage electronic waste. Mr. Goldsmith did say that he preferred to use the term “e-scrap” instead of “e-waste” because in his business, electronics no longer in use represent a commodity, not a waste.

Please see pages 20 through 30 of the official transcript of this meeting for a verbatim account of the commenters’ presentations.

Mayor Graham said that there were no more comments so concluded the hearing. He then asked for questions from the Board.

Mr. Steve Boyce asked for clarification if guidelines being adopted that the federal government had not yet enacted. Mr. Palin said that the initial focus of the workgroup was to provide input on the hazardous materials in e-waste, but then expanded the rule to promote reclamation and recycling. A registration of businesses involved in recycling or reclamation of electronics would provide the public with information about the proper management of unwanted electronics.

Ms. Daniela Klesmith, Engineering, Permits Branch, also added that e-waste has both solid and hazardous waste components so by doing this rule, it would combine e-waste components into one rule for “one-stop shopping”.

Mr. Himes mentioned that definitions in the rule are referenced but not repeated, word for word and that makes the rule difficult to read because the actual definition is not present. It has to be looked up elsewhere. Mr. Davis also said that while it is more challenging to read, it keeps the reader current because they will refer to the most current version of the statute for a definition. The reader won’t be looking at a definition that might have been changed. Ms. Ann Long, Office of General Counsel, commented that the definitions are also referenced rather than written out completely because of preference for this method by the Attorney General’s Office.

Mr. Rick Dyar asked if consideration was given to publishing a paper booklet with definitions spelled out or with an electronic provided. Ms. West said that the electronic LSA version is linked. Ms. Long said that the reader may click on a citation and link to it. However, she acknowledged the frustration of reading a paper copy and having to switch back and forth to electronic links.

Mr. Himes asked if any consideration was given to Mr. Goldsmith's concern about the commodities vs. waste issues. Ms. West said that the definition of electronic waste acknowledged this as follows: "Electronic waste or e-waste is commonly called electronic scrap or e-scrap". Please see pages 30 through 42 of the official transcript of this hearing for a complete account of Board discussion.

There were no further comments from the Board and no further public comment. Mayor Graham asked for a motion to preliminarily adopt the rule as presented. Mr. Davis so moved and Mr. Kerry Stepter seconded. The motion passed unanimously.

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| 6. | Mayor Graham announced the continuation of the hearing to consider #06-556, Amendments to Rules At 329 IAC 3.1, the Hazardous Waste Management Permit Program and Related Hazardous Waste Management, also known as the 2006 Hazardous Waste Update Rule, for preliminary adoption. | PRELIMINARY ADOPTION
AMENDMENTS TO RULES
AT 329 IAC 3.1
2006 HAZARDOUS WASTE
UPDATE RULE |
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Mayor Graham asked for public comment. There was none so the hearing was continued to the March 20, 2007, Solid Waste Management Board meeting, 1:30 p.m., Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana. Another opportunity would be provided for public comment.

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| 7. | Mayor Graham announced the public hearing to consider final adoption of LSA #05-167, Amendments to Rules at 329 IAC 10-20 and 329 IAC 10-39, Concerning Solid Waste Land Disposal Facilities Financial Responsibility, Annual Review and Annual Survey Results. He introduced Exhibit B, the proposed rule as preliminarily adopted, into the record of the hearing and asked Ms. West to address the Board. | FINAL ADOPTION
AMENDMENTS TO RULES AT
329 IAC 10-20 and 329 IAC 10-39
CONCERNING SOLID WASTE LAND
DISPOSAL FACILITIES FINANCIAL
RESPONSIBILITY, ANNUAL REVIEW
AND ANNUAL SURVEY RESULTS |
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Ms. West reviewed the changes made to the rule in response to comments from the first hearing and previous meetings held with the regulated community. She cited the location of the changes made and the nature of each change. Ms. West said that she had received confirmation from the U.S. EPA that the rulemaking changes met the 40 CFR 257 standards. Please see pages 44 through 46 of the official transcript of this meeting for a verbatim account of Ms. West's remarks.

There was no public comment so the hearing was closed. There were no comments or questions from the Board. Mayor Graham asked for a motion to final adopt the rule. Mr. Davis so moved and Dr. Lenore Tedesco seconded. The motion passed unanimously.

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| 8. | Mayor Graham announced the continuation of the hearing to consider #05-296, Amendments to Rules | FINAL ADOPTION
AMENDMENTS TO RULES |
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Concerning Crushed Construction/Demolition Waste at 329 IAC 10-9-3, 329 IAC 10-11-2.1, 329 IAC 10-13-5, 329 IAC 10-20-25, 329 IAC 10-22-2 and 329 IAC 10-23-3 for final adoption. He introduced

CONCERNING CRUSHED
CONSTRUCTION/DEMOLITION
WASTE AT 329 IAC 10

Exhibit C, the proposed rule as published and Exhibit C-1, IDEM's suggested changes to the proposed rule, into the record of the hearing. He then asked Ms. Kiran Verma to address the Board.

Ms. Verma briefly reviewed the history of the rulemaking and said that it carries out changes to permitting requirements in 329 IAC 10 mandated under Senate Enrolled Act 279-2005. There were some minor changes reviewed by Ms. Verma -- she said that there should be little to no economic impact. She said that the amendments regarding construction/demolition waste offer a "simple solution to protect the health of citizens and prevent disposal of pulverized construction/demolition waste into construction/demolition landfills that have not been designed or operated to safely accept such crushed or pulverized construction/demolition waste." Please see pages 49 through 52 of the official transcript of this meeting for a verbatim account of Ms. Verma's remarks.

Mr. Kerry Stepter asked for clarification. Ms. Verma confirmed Mr. Stepter's interpretation that the construction/demolition waste should remain in a recognizable form and not shredded, crushed, ground, pulverized or processed prior to disposal. Mayor Graham asked for comments from the public. There were none, so the hearing was concluded. There were no other questions or comments from the Board.

Mayor Graham asked for a motion to adopt Exhibit C-1, IDEM's suggested changes. The motion passed unanimously. Mayor Graham then asked for a motion to adopt the final rule, as amended. Mr. Himes so moved and Mr. Stepter seconded the motion. The motion passed unanimously.

9. Mayor Graham announced the public hearing to consider final adoption of #05-234, the Environmental Stewardship Program and Comprehensive Local Environmental Action Network. He introduced Exhibit D, the proposed rule as published and Exhibit D-1, IDEM's suggested changes, into the record and asked Mr. Dan Murray, Assistant Commissioner of the Office of Pollution Prevention and Technical Assistance, to address the Board.

FINAL ADOPTION
ENVIRONMENTAL STEWARDSHIP
PROGRAM AND COMPREHENSIVE
LOCAL ENVIRONMENTAL
ACTION NETWORK

Mr. Murray reviewed the history of the rulemaking activities to date and explained that the purpose of the rule was to provide a systematic way for facilities to manage their environmental responsibilities, improve and reduce their impact on the environment while increasing operational efficiency. He also said that improved definitions, increased accountability and information available to the public have evolved as part of the rulemaking process. He said that as a result of dialogue and questions, the program will produce positive environmental results and allow the agency to address ongoing environmental challenges. Please see pages 58 through 62 of the official transcript of this meeting for a complete account of Mr. Murray's comments.

There were no commenters so the hearing was concluded. There were no questions or comments from the Board so Mayor Graham asked for a motion to adopt Exhibit D-1, IDEM's suggested changes. Mr. Stepter so moved and Mr. Davis seconded. The motion

passed unanimously. Mayor Graham then asked for a motion to final adopt the rule as amended. Mr. Davis so moved and Mr. Stepter seconded. The motion passed unanimously.

10. Mayor Graham then opened the floor to hear from the public on topics of interest and potential rulemaking in Title 329. Mr. Davis suggested that the minutes needed to be readopted because a quorum was not present at the beginning of the meeting when the minutes were originally adopted. Mayor Graham asked for motion to readopt the minutes as submitted. Mr. Davis so moved and Mr. Howard Cundiff seconded. The motion passed unanimously. There were no further issues to come before the Board.

11. Mayor Graham adjourned the meeting at 2:52 p.m. ADJOURNMENT

The next meeting will be March 20, 2007, at 1:30 p.m., at the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.

Technical Secretary